

FILED
Clerk
District Court

OCT - 4 2007

For The Northern Mariana Islands
By _____
(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

LI YING HUA, LI ZHENG ZHE,
and XU JING JI,

Plaintiffs

v.

JUNG JIN CORPORATION, a
Commonwealth of the Northern
Mariana Islands Corporation; ASIA
ENTERPRISES, a Commonwealth of
the Northern Mariana Islands
Corporation; PARK HWA SUN; and,
KIM HANG KWON,

Defendants

Civil Action No. 05-0019

ORDER DENYING
PLAINTIFFS' MOTION
TO RE-OPEN JUDGMENT
and GRANTING MOTION TO
FILE SECOND AMENDED
COMPLAINT

THIS MATTER came before the court on October 4, 2007, for hearing of
plaintiffs' motion to re-open the judgment to add post-judgment attorney's fees and
motion to file a second amended complaint. Plaintiffs appeared by and through their

1 attorney, Mark B. Hanson; proposed new defendants KSK Corporation and Kim Ki
2 Sung appeared by and through their attorney, Kelley M. Butcher.

3
4 THE COURT, having considered the written and oral arguments of counsel,
5 rules as follows.

6
7 Plaintiffs' seek to re-open the judgment they obtained against the original
8 named defendants on August 24, 2006, in order to add attorney's fees incurred post-
9 judgment and have also moved to file a second amended complaint to add KSK
10 Corporation and Kim Ki Sung as defendants, in order to proceed against them on a
11 theory of successor liability.
12

13 Plaintiffs filed this lawsuit on June 23, 2005. On May 18, 2006, plaintiffs filed
14 a first amended complaint, adding KSK Corporation and Kim Ki Sung as defendants.
15 (Docket No. 45) On May 22, 2006, KSK and Sung, through prior counsel, filed an
16 "objection" to the first amended complaint, and sought to have it dismissed or
17 stricken. (Docket No. 49) By order dated June 20, 2006, and amended June 21,
18 2006, the court granted the motion to dismiss or strike the first amended complaint,
19 without prejudice to it being re-filed. (Docket Nos. 63, 64) Until the instant motion,
20 plaintiffs made no attempt to again amend the complaint to add KSK Corporation or
21 Kim Ki Sung. By order dated August 14, 2006, the court granted summary judgment
22 in plaintiffs' favor against the original defendants, and shortly after awarded costs and
23 attorney's fees. (Docket Nos. 87, 92.) Judgment was entered August 24, 2006.
24
25
26

1 (Docket No. 93) Thereafter, plaintiffs made efforts to collect on their judgment of
2 \$209,798.55. According to plaintiffs' counsel, the judgment remains unsatisfied in the
3 amount of \$163,853.31. (Docket No. 168, ¶ 22)
4

5 Now, plaintiffs seek to "re-open" and amend the judgment to add attorney's
6 fees which have been incurred by them in their attempts to collect on the judgment
7 since it was entered. They rely on Fed.R.Civ.P. 60(b)(2) or 60(b)(6). Rule 60, "Relief
8 from Judgment or Order," provides in relevant part:
9

10 (b) * * * On motion and upon such terms as are just, the court may
11 relieve a party or a party's legal representative from a final judgment,
12 order, or proceeding for the following reasons: * * * (2) newly
13 discovered evidence which by due diligence could not have been
14 discovered in time to move for a new trial under Rule 59(b); * * * (6)
any other reason justifying relief from the operation of the judgment.

15 The first ground upon which the court denies the motion is based upon a
16 straightforward reading of the Rule. Plaintiffs do not need "relief" from a judgment
17 in their favor. More importantly, they have provided no legal basis for amending the
18 original judgment in order to add attorney's fees which have been incurred during
19 efforts to collect on their judgment since the entry of the judgment. The court
20 foresees immediate due process problems were it to embrace plaintiffs' argument.
21 Additionally, to do so would remove all finality from judgments. Finally, except in
22 cases involving intensive post-judgment "monitoring" for compliance with a court's
23 orders, the court has found no case which supports plaintiffs' expansive reading of
24
25
26

1 Fed.R.Civ.P. 60. Accordingly, plaintiffs' motion to amend the judgment to add post-
2 judgment attorney's fees is denied.

3
4 Plaintiffs' motion to file a second amended complaint to add new defendants
5 is granted, pursuant to Fed.R.Civ.P. 15 and 21. Although it was not necessary for
6 plaintiffs to first exhaust their collection efforts against the defendants against whom
7 they obtained a judgment before moving to amend their complaint, the court
8 acknowledges that such amendments are to be freely given when justice so requires.
9 Plaintiffs should be given an opportunity to pursue their remedy against any party
10 who may be found legally liable for their damages. Any prejudice¹ to the newly-
11 named defendants does not outweigh the potential harm to plaintiffs, and defendants
12 themselves have appropriate remedies if they believe the second amended complaint
13 has been filed without a legal or factual basis.
14
15
16
17
18
19
20
21
22
23

24 1

25 Kim Ki Sung and KSK Corporation have known plaintiffs sought to
26 impose liability on them since at least May 18, 2006, the day they were served
with plaintiffs' first motion to add them as defendants.

1 FOR THE FOREGOING REASONS, plaintiffs' motion to re-open the
2 judgment to add post-judgment attorney's fees is denied and their motion to file a
3 second amended complaint is granted. The second amended complaint is deemed
4 served and filed as of the date of this order.
5

6 DATED this 4th day of October, 2007.
7
8
9

10 

11 ALEX R. MUNSON

12 Judge
13
14
15
16
17
18
19
20
21
22
23
24
25
26